



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE

STATEMENT OF ESTIMATED FISCAL IMPACT

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Bill Number:	H. 4431	Signed by Governor on September 30, 2020
Author:	Jordan	
Subject:	SC Business License Tax Reform	
Requestor:	House of Representatives	
RFA Analyst(s):	Jolliff	
Impact Date:	November 20, 2020	

Fiscal Impact Summary

This bill requires Revenue and Fiscal Affairs (RFA) to establish and provide a standard business license application for use by each taxing jurisdiction; adopt revisions to the latest Standardized Business License Class Schedule in every odd year for use by a taxing jurisdiction; and host and manage the business license tax portal for taxing jurisdictions to provide access to taxpayers paying business license taxes. RFA expects to contract with the Municipal Association of SC (MASC) to accomplish much of the requirements in this bill using the pilot portal MASC has developed. In managing the portal as described below, if RFA can contract with MASC and the current vendor to build upon the existing pilot project and structure, then the additional cost for hosting and managing the portal would be largely limited to staff time, which is expected to be minimal and could be handled within the agency's current budget authority. If, however, RFA is unable to rely upon the current system and is required to develop a new system, then significant additional costs would be incurred. Further, managing the portal may also require RFA to provide additional hardware or information security services to meet the State DIS200 standards. This cost is undetermined at this time and depends on a thorough review of the current standards.

The bill provides that a taxpayer may appeal a business license tax assessment decision by a taxing jurisdiction to the Administrative Law Court, which may increase the number of cases heard, but the number of cases that will be heard is unknown. Therefore, the impact on the court docket and court expenditures is undetermined.

The bill may reduce total expenditures for local jurisdictions for collection of business license taxes as some costs are moved to the state. However, the impact on local expenditures will vary and is undetermined. There may be potential cost savings if taxpayer compliance increases, but the amount is unknown and will depend on each jurisdiction's experience.

Under the bill, taxing jurisdictions must establish a 2022 Business License Tax Rate Schedule using the gross income reported by businesses for a twelve-month period in the 2020 business license year so that the aggregate taxing jurisdiction business license calculated for 2022 does not exceed the aggregate taxing jurisdiction business license tax collected in 2020 from the same businesses. Based upon this provision, we expect that total local revenue will remain unchanged by the bill in 2022.

Explanation of Fiscal Impact

Signed by Governor on September 30, 2020

State Expenditure

This bill enacts the South Carolina Business License Tax Reform Act to provide for the standardization of business license tax forms and online payment option of business license tax forms imposed by any county or municipality beginning January 1, 2022. Currently, S.C. Code of Laws §4-9-30(12) and 5-7-30 authorize counties and municipalities, respectively, to impose a business license tax on the gross income of businesses operating within their jurisdictions. Each taxing jurisdiction administers this tax, though the Municipal Association of South Carolina (MASC) is conducting a pilot program for an online option. The bill requires that each taxing jurisdiction must accept a standard business license application as established and provided by the director of Revenue and Fiscal Affairs. In every odd year, a taxing jurisdiction levying a business license tax must also adopt, by ordinance, the latest Standardized Business License Class Schedule as recommended by the Municipal Association of SC and adopted by the director of RFA. A taxing jurisdiction, however, with a rational basis as explained in an ordinance and by a positive majority vote of council, may provide reasonable subclassifications to the approved form, described by NAICS sector, subsector, or industry, based upon consideration for economic stimulus or to reflect disproportionate demands on the taxing jurisdiction's services or infrastructure. The bill further requires that RFA host and manage a business license tax portal. Each taxing jurisdiction is required to provide access to all taxpayers for reporting, calculation, and payment of business license taxes through the portal.

Revenue and Fiscal Affairs.

The bill adds three duties to RFA which are:

1. To establish and provide a standard business license application for use by each taxing jurisdiction;
2. To adopt, in every odd year, as recommended by the Municipal Association of SC, the latest Standardized Business License Class Schedule for use by a taxing jurisdiction; and
3. To host and manage the business license tax portal for taxing jurisdictions to provide access to taxpayers paying business license taxes.

Establishing and providing a standard business license application will require staff time for meetings and developing an application. Although more staff time is expected to be spent in the initial year of establishing this form than in the future, RFA expects this can be accomplished with existing resources. RFA plans to provide taxing jurisdictions an electronic copy of the form for the local jurisdiction to print and use.

Adopting the latest Standardized Business License Class Schedule, as recommended by MASC, will require additional staff time. Again, more time is expected to be spent in the initial year of development than in later years, but is also expected to be accomplished with existing resources. A taxing jurisdiction, upon certain criteria and a majority vote, may amend the adopted schedule by providing for additional subclassifications.

Under the current pilot project by MASC for an online portal, RFA is hosting the portal by providing a server and monitoring connection activity. While this hosting function is not

expected to change under this bill, RFA anticipates managing the portal will add new duties. Depending on the extent to which the current pilot project is incorporated into RFA's management of the portal or subsequently changed, these factors will determine whether additional expenditures are required. Managing the portal covers four general types of duties which include developing or contracting to develop software; providing additional hardware and information security services; providing or contracting for technical support; and providing or contracting for payment processing.

RFA anticipates that providing software may be accomplished in one of two ways. The agency may contract with MASC to utilize the existing portal developed by the Municipal Association. If RFA can contract with MASC and the current vendor to build upon the existing pilot project and structure, then additional costs for this duty would be limited to staff time, which is expected to be minimal and could be handled within the agency's current budget authority. If, however, RFA is unable to rely upon the current system and is required to develop a new system, then significant additional costs, possibly exceeding one million dollars, would be incurred. Managing the portal may also require RFA to provide additional hardware or information security services to meet the State DIS200 standards. This cost is undetermined at this time and depends on a thorough review of the current standards.

Currently, the MASC is providing the technical and customer support services for the portal, as it has the staff in place to fulfil this need. If RFA can contract with MASC to continue this practice, then the only additional costs for RFA would be the staff time in developing the contract and are expected to be minimal. If RFA is required to provide this service or contract with another party, then this would result in additional expenditures.

The current portal also covers payment processing. If RFA is able to maintain the current arrangement, then the additional expense to RFA will be limited to staff time for developing the contract. If, on the other hand, RFA is required to handle the payment or adopt another contractual arrangement, then additional expenses would be incurred by the agency.

In managing the portal as described in this bill, RFA does not anticipate it will be required to provide legal or other administrative functions or responsibilities beyond those enumerated above as those duties and costs will remain with the taxing jurisdiction. If, however, additional services of this type are required by RFA, then additional costs would be incurred.

Administrative Law Court. The bill provides that a taxpayer may appeal a business license tax assessment decision by a taxing jurisdiction to the Administrative Law Court. The taxpayer must first appeal to the taxing jurisdiction. Upon receipt of a written decision from the jurisdiction, the taxpayer may then request a contested case hearing before the Administrative Law Court. This bill may result in additional hearings, but the number of appeals that will be heard is unknown. Therefore, while we do not anticipate that this will substantially impact expenditures for the Administrative Law Court, the impact will depend upon the number of cases heard and is undetermined.

State Revenue

N/A

Local Expenditure

This bill enacts the South Carolina Business License Tax Reform Act to govern business license taxes imposed by any county or municipality. Currently, each county or municipality administers its business license tax and this bill requires some of the administrative functions of this process to be handled by RFA.

The bill requires that each taxing jurisdiction must accept a standard business license application as established and provided by the director of RFA. Further, jurisdictions must allow taxpayers to utilize a business license portal for remitting business license taxes.

A taxing jurisdiction may contract with a third party to assist in collecting delinquent business license taxes which includes a contingency fee based on a percentage of taxes collected or otherwise depends on the specific result obtained provided the third party may not be paid on a contingency or success basis until the taxing jurisdiction issues a proposed assessment of business license taxes and the business fails to appeal the proposed assessment in a timely manner or the appeal is adjudicated. This provision does not apply to the collection of business license taxes for utilities or insurers.

The bill may reduce total expenditures for local jurisdictions for collection of business license taxes as some costs are moved to other entities. However, the impact on local expenditures will vary and is undetermined. Local jurisdictions will be required to continue accepting business license payments in person in addition to through the portal. They will also be responsible for providing refunds and serving notice of assessment for failure to pay. There may be potential cost savings if taxpayer compliance increases, but the amount is unknown and will depend on each jurisdiction's experience.

Local Revenue

Currently, counties and municipalities may impose a business license tax on the gross income of businesses operating in the taxing entity's jurisdiction. Based upon data from the Annual County and Municipal Financial reports submitted to RFA, ten counties reported a total of approximately \$22,744,000 in business license taxes for FY 2017-18, and two-hundred and thirteen municipalities reported approximately \$383,889,000 in business license taxes.

Under the bill, taxing jurisdictions must establish a 2022 Business License Tax Rate Schedule using the gross income reported by businesses for a twelve-month period in the 2020 business license year so that the aggregate taxing jurisdiction business license calculated for 2022 does not exceed the aggregate taxing jurisdiction business license tax collected in 2020 from the same businesses. Based upon this provision, we expect that total local revenue will remain unchanged by the bill in 2022.



Frank A. Rainwater, Executive Director